

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-28 remain pending. Claims 1, 8 and 18 are independent.

ALLOWABLE SUBJECT MATTER

Applicants appreciate that claims 1-7 and 18-28 are indicated to be allowable.

§ 102 REJECTION – BEINE

Claims 8-17 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Beine et al. (U. S. Patent 6,701,087, hereinafter “Beine”). See *Office Action, Items 1 and 2*. Applicants respectfully traverse.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. See *M.P.E.P. 2131; M.P.E.P. 706.02*. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Beine fails to teach or suggest each and every claimed element. For example, independent claim 8 recites, in part “obtaining measured power parameters at the input to the selected component.”

Emphasis added. The Examiner relied upon the Abstract; column 7, lines 8-57; and column 8, lines 45-67 of Beine to allegedly teach or suggest all the elements of claim 1. Contrary to the Examiner's assertion, Beine cannot be relied upon to teach or suggest at least the above-recited feature.

First, it is clear that the relied upon portions of Beine are silent regarding measuring power parameters at all. The relied upon portions merely indicate that power parameter information is exchanged between nodes so that output signals of each node have a selected signal power level. *For example, see Abstract.*

Indeed, Beine is directed toward system for managing signal power levels in an optical network. The network includes multiple network elements. For example, in Figure 2, the network includes four network elements 202, 204, 206, and 208. The nodes are interconnected by signal links 210, 212, 214, and 216, and are also connected via information links 218, 220, 222, and 224. *See column 4, lines 42-63.* Beine discloses that the output signal powers of signals transmitted on the signal links between neighboring network elements are held at consistent output power per wavelength. *See column 5, lines 19-22.* This is consistent with the power management strategy that is employed in Beine. *See column 3, line 64 – column 4, line 1.* In other words, with this strategy, each node or network element is assumed to receive input signals

with power levels that are relatively constant. Then, to guarantee that the particular node will output optical signals also at a constant level, this power management strategy effectively localizes the power management within each node in that the power management for the network becomes a function of each node's internal component configuration and optical path variations. See *column 4, lines 5-9*.

Because each node is assumed to receive inputs at a particular constant power level, there is simply no need to measure input power levels to any particular component selected or otherwise. Only the calculated power parameters need to be considered to select the appropriate attenuations for each variable optical attenuators that are part of the network element components. Indeed, Beine is silent regarding the need for measuring power levels at all.

Therefore, for at least this reason, independent claim 8 is distinguishable over Beine. Claims 9-17 depend from independent claim 8 directly or indirectly. Therefore, for at least the reasons stated above with respect to independent claim 8, these dependent claims are also distinguishable over Beine.

Applicants respectfully request that the rejection of claims 8-17 based on Beine be withdrawn.

U.S. Application No. 10/027,916

Docket No. 4450-0358P

DUE: April 4, 2005

Art Unit: [2173]

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CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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